



## **ACA § 9010 Health Insurance Providers Fee and MLR Rebates: Important Clarification**

Section 57.2(k) of the health insurance providers fee regulations defines “net premiums written” as “premiums written, including reinsurance premiums written, reduced by reinsurance ceded, and reduced by ceding commissions and medical loss ratio (MLR) rebates with respect to the data year.” The regulations further require MLR rebates to be “computed on an accrual basis” in determining net premiums written.

The Affordable Care Act (ACA) established a minimum MLR of 80% for insurance plans in the individual and small group commercial markets, and 85% for plans in the large group commercial market. Accordingly, the 2015 Form 8963 instructions refer to MLR rebates reported on specific lines on the SHCE and CCIIO MLR form, which are those rebates paid or accrued for the commercial markets.

Starting in 2014, with initial reporting due at the end of the contract period (December 2015, after the “Part D reconciliation and calculation of risk corridor payments” are performed), the ACA requires Medicare Advantage and Medicare Part D plan insurers to meet a minimum MLR requirement. If the insurer does not meet the requirement, they must refund an amount back to the Federal Government.

Additionally, although no similar federal minimum standard applied to Medicaid Managed Care Organizations (MCOs), 10 states plus the District of Columbia (Arizona, Hawaii, Illinois, Indiana, Maryland, New Jersey, New Mexico, Ohio, Virginia, and Washington) established minimum MLR requirements for their MCOs at the end of 2014. In addition, many states that implemented the Medicaid eligibility expansion under ACA included a minimum MLR requirement in contracts with MCOs.

**In determining net premiums written for the 2015 fee year, which is based on 2014 data, covered entities must take into account on an accrual basis any MLR rebates for Medicare Advantage and Medicare Part D plans and for Medicaid in the states or contracts that require MLR computations.**

The instructions for the 2016 Form 8963 will be expanded to include MLR rebates other than those reported for the commercial markets.

### **Corrective Action:**

Any entity that must correct a previously submitted Form 8963, “Report of Health Insurance Provider Information,” to account for additional MLR rebates accrued in 2014 as described in this letter must file a corrected Form 8963 during the correction period, no later than July 15, 2015. Please either submit a corrected form via efile or mail your form to:

Internal Revenue Service  
1973 Rulon White Blvd, Mail Stop 4916  
Ogden, UT **84201-0051**

If you mail your Form 8963, please also fax it to 877-797-0235 to ensure timely receipt.